

Owensby, et al. vs. City of Cincinnati
December 3, 2003

ROBERT B. HEILAND, JR.

1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
 :
Plaintiffs, :
vs. : Case No. 01-CV-769
 : (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
 :
Defendants. :

Deposition of ROBERT B. HEILAND JR.,
defendant herein, called by the plaintiffs for
cross-examination, pursuant to the Federal Rules of
Civil Procedure, taken before me, Wendy Davies
Welsh, a Registered Diplomate Reporter and Notary
Public in and for the State of Ohio, at the offices
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &
Walnut Centre, 105 East Fourth Street, Cincinnati,
Ohio, on Wednesday, December 3, 2003, at 10:10 AM.

(800) 578-1542 * MERIT * (513) 381-8228

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<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Paul B. Martins, Esq. 4 Don Stiens, Esq. 5 Frederick M. Morgan Jr., Esq. 6 Helmer, Martins & Morgan Co. LPA 7 Suite 1900, Fourth & Walnut Centre 8 105 East Fourth Street 9 Cincinnati, Ohio 45202 10 Phone: (513) 421-2400</p> <p>11 John J. Heibling, Esq. 12 The Heibling Law Firm, L.L.C. 13 3672 Springdale Road 14 Cincinnati, Ohio 45251 15 Phone: (513) 923-9740</p> <p>16 On behalf of the Defendants City of Golf Manor, 17 Stephen Tilley, Roby Heiland and Chris 18 Campbell:</p> <p>19 Wilson G. Weisenfelder, Jr., Esq. 20 Rendigs, Fry, Riely & Dennis 21 900 Fourth & Vine Tower 22 One West Fourth Street 23 Cincinnati, Ohio 45202-3688 24 Phone: (513) 381-9200</p> <p>On behalf of the Defendant City of Golf Manor:</p> <p>Terrence M. Donnellon, Esq. Donnellon, Donnellon & Miller 9079 Montgomery Road Cincinnati, Ohio 45242 Phone: (513) 891-7087</p>	<p>Page 4</p> <p>1 S T I P U L A T I O N S</p> <p>2 It is stipulated by and among counsel for the</p> <p>3 respective parties that the deposition of ROBERT B.</p> <p>4 HEILAND JR., defendant herein, called by the</p> <p>5 plaintiffs for cross-examination, pursuant to the</p> <p>6 Federal Rules of Civil Procedure, may be taken at</p> <p>7 this time by the notary; that said deposition may be</p> <p>8 reduced to writing in stenotype by the notary, whose</p> <p>9 notes may then be transcribed out of the presence of</p> <p>10 the witness; and that proof of the official</p> <p>11 character and qualifications of the notary is</p> <p>12 expressly waived.</p> <p>13 - - -</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>Page 3</p> <p>1 On behalf of Defendants City of Cincinnati, 2 Darren Sellers, Jason Hodge:</p> <p>3 Geri Hernandez Geller, Esq. 4 Assistant City Solicitor 5 Department of Law 6 Room 214, City Hall 7 801 Plum Street 8 Cincinnati, Ohio 45202 9 Phone: (513) 352-3346</p> <p>10 On behalf of the Defendants Robert B. Jorg, 11 Patrick Caton, Jason Hodge, Victor Spellen and 12 Darren Sellers:</p> <p>13 Donald E. Hardin, Esq. 14 Hardin, Leffon, Lazarus & Marks, LLC 15 915 Cincinnati Club Building 16 30 Garfield Place 17 Cincinnati, Ohio 45202 18 Phone: (513) 721-7300</p> <p>19 Also present:</p> <p>20 Chief Stephen Tilley</p> <p>21 Lisa Damstrom, Law Clerk</p> <p>22 Helmer, Martins & Morgan Co., L.P.A.</p> <p>23 - - -</p> <p>24</p>	<p>Page 5</p> <p>1 I N D E X</p> <p>2 Examination by: Page</p> <p>3 Mr. Martins 6</p> <p>4 Mr. Hardin 104</p> <p>5 Mr. Martins 132</p> <p>6 Mr. Hardin 139</p> <p>7 - - -</p> <p>8 E X H I B I T S</p> <p>9 Page</p> <p>10</p> <p>11 Plaintiff's Exhibits 69 & 70 12</p> <p>12 Plaintiff's Exhibit 71 29</p> <p>13 Plaintiff's Exhibit 72 30</p> <p>14 Plaintiff's Exhibit 73 31</p> <p>15 Plaintiff's Exhibit 74 36</p> <p>16 Plaintiff's Exhibit 75 66</p> <p>17 Plaintiff's Exhibit 76 68</p> <p>18 Plaintiff's Exhibit 77 75</p> <p>19 Plaintiff's Exhibit 77A 77</p> <p>20 Plaintiff's Exhibit 78 92</p> <p>21 Plaintiff's Exhibits 79 & 80 137</p> <p>22 - - -</p> <p>23</p> <p>24</p>

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<p style="text-align: right;">Page 14</p> <p>1 a guide for some other employment history. If you 2 go to the second page, midway through we have the 3 Hamilton County juvenile court officer, and then 4 from, am I correct in reading this, from '94 through 5 '97 you worked at Good Samaritan Hospital as a 6 health tech? 7 A. That's correct. 8 Q. What are the duties of a health tech, 9 technician? 10 MR. WEISENFELDER: Then or now? 11 Q. At this time. What were your duties as a 12 health technician? 13 A. At that time, the best way to explain it, 14 I think, is the hospital did away with nursing 15 assistants and LPNs and they kind of combined the 16 two jobs. So my duties would be to assist the 17 nurse, an RN: Vital signs, bed pans, just basically 18 being a nursing assistant. 19 Q. Did you have to have any particular 20 qualifications in order to be a health technician? 21 A. Good Samaritan Hospital trains you. I 22 think it was a six to eight week program that they 23 trained you in-house. 24 Q. Before that, from '93 to '94, if I'm</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Yes. It was a unit out of St. Louis. 2 Q. Without going into any detail, what kind 3 of training did you receive as a combat medic? 4 A. Basic first aid for combat type injuries: 5 Give shots, IVs, assessments. 6 Q. Would that include CPR? 7 A. Yes. 8 Q. Do these two documents, 69 and 70, fairly 9 reflect your employment history? 10 A. Yes. 11 Q. Are EMTs licensed? Is there a 12 qualification process that they go through? 13 A. Yes. 14 Q. Certification? 15 A. At the time they had a national 16 certification and a state certification. Some 17 states would adopt, if you were nationally 18 registered, they would adopt you. 19 Q. I gather that when you worked for 20 Eldercare you were a certified EMT? 21 A. Yes. 22 Q. When you worked for Good Sam were you a 23 certified EMT? 24 A. I'm not sure if my certification -- how</p>
<p style="text-align: right;">Page 15</p> <p>1 reading this correctly, you worked for Eldercare as 2 an EMT; is that right? 3 A. That's correct. 4 Q. Prior to that, from '91 to '93, College of 5 Mt. St. Joe, retail coordinator? 6 A. Yes. 7 Q. What is a retail coordinator? 8 A. Basically, worked in shipping/receiving in 9 the college bookstore. 10 Q. If you turn the page again, on the third 11 page there is a question concerning military 12 service. And I see that you at some point in time 13 were a combat medic in the United States Army 14 Reserve. Can you explain to me when you were a 15 combat medic? 16 A. Yes. I attended Basic Training '91, '92. 17 After that went to Fort Sam Houston for combat medic 18 training. Subsequently was transferred to the 19 Inactive Reserve for the remaining of my service. 20 Q. Fort Sam Houston is a major medical center 21 in the Army, isn't it? 22 A. Yes. 23 Q. Then in the Inactive Reserve were you 24 assigned to a unit?</p>	<p style="text-align: right;">Page 17</p> <p>1 long it carried on. 2 Q. In 2000 were you a certified EMT? 3 A. No. 4 Q. But you had the EMT experience and the 5 knowledge? 6 A. Yes. 7 Q. Had you been asked, do you feel that you 8 would have been qualified to provide CPR to Mr. 9 Owensby on the night of November 7, 2000? 10 MR. WEISENFELDER: Objection. 11 Go ahead. Go ahead. 12 THE WITNESS: I'm sorry? 13 MR. MARTINS: Counsel will make objections 14 from time to time, but unless he instructs you 15 not to answer, you still have to answer the 16 question. 17 THE WITNESS: Okay. 18 MR. MARTINS: So he just made an objection 19 and he told you to go ahead and answer. 20 A. Okay. What was the question? I was 21 confused. 22 Q. Had you been asked, do you feel that you 23 would have been qualified to provide CPR to Mr. 24 Owensby on the night of November 7, 2000?</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q. All right.</p> <p>2 A. And there was a police officer on each</p> <p>3 side of him, there was a few people around. And one</p> <p>4 of the officers asked if they could put him in my</p> <p>5 cruiser.</p> <p>6 Q. When that question was asked where was Mr.</p> <p>7 Owensby?</p> <p>8 A. Mr. Owensby was still on the ground or</p> <p>9 they were in the process of picking him up.</p> <p>10 Q. Picking him up? Okay. Go ahead.</p> <p>11 A. I said, "Sure." They picked him up, one</p> <p>12 on each side, under each arm, and brought him to my</p> <p>13 cruiser. I opened the rear passenger door and they</p> <p>14 placed Mr. Owensby in the back of my car.</p> <p>15 Q. Let me show you what's previously been</p> <p>16 marked as Exhibit 9. Do you recall whether or not</p> <p>17 that is a photograph of the car that the officers</p> <p>18 and Mr. Owensby were near when you pulled in?</p> <p>19 A. I don't recall what type of car it was. I</p> <p>20 can't see the background in the picture.</p> <p>21 Q. As perspective goes, this is taken from</p> <p>22 the entrance of the convenience store looking out.</p> <p>23 A. Having said that, then they would have</p> <p>24 been at the rear of this car.</p>	<p style="text-align: right;">Page 24</p> <p>1 Officer Campbell with you?</p> <p>2 A. I don't recall.</p> <p>3 Q. When you returned to the cruiser were the</p> <p>4 doors, the back doors, closed?</p> <p>5 A. Yes, they were.</p> <p>6 Q. Did you check on Mr. Owensby?</p> <p>7 MR. WEISENFELDER: Objection.</p> <p>8 Go ahead.</p> <p>9 A. No.</p> <p>10 Q. No?</p> <p>11 A. No.</p> <p>12 Q. Did you ever look in to check on Mr.</p> <p>13 Owensby?</p> <p>14 MR. WEISENFELDER: Objection.</p> <p>15 Go ahead.</p> <p>16 A. Yes.</p> <p>17 Q. When?</p> <p>18 A. I don't know how long it was, but I did</p> <p>19 look in the back of the cruiser.</p> <p>20 Q. When you did look in -- let me back up.</p> <p>21 The cruiser was situated near a gas</p> <p>22 island, correct?</p> <p>23 A. Correct.</p> <p>24 Q. The gas island has those halogen lights on</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Did you watch them place Mr. Owensby in</p> <p>2 the back seat of the car, of the Golf Manor car?</p> <p>3 A. I opened the door, took a step away, and</p> <p>4 they were having trouble placing him in the back of</p> <p>5 the car. No. I didn't watch them place him all the</p> <p>6 way in the car.</p> <p>7 Q. What did you do as they were placing him?</p> <p>8 Where was your attention directed as they were</p> <p>9 placing him in the car?</p> <p>10 A. Looking out the rest of the parking lot.</p> <p>11 At one point I walked away and went over to another</p> <p>12 Golf Manor officer, Officer Campbell.</p> <p>13 Q. Was there a point in time where you</p> <p>14 returned to your cruiser?</p> <p>15 A. Yes.</p> <p>16 Q. So you walk away toward Officer Campbell,</p> <p>17 and then some time goes by and you and Officer</p> <p>18 Campbell, or at least you, return to your cruiser,</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. Do you have an estimate of how much time</p> <p>22 went by in that interval?</p> <p>23 A. I don't recall.</p> <p>24 Q. When you returned to your cruiser was</p>	<p style="text-align: right;">Page 25</p> <p>1 it, correct?</p> <p>2 A. I don't recall.</p> <p>3 Q. In any event, there was sufficient light</p> <p>4 from the gas island and from the convenience store</p> <p>5 to see Mr. Owensby in the back seat of the car,</p> <p>6 right?</p> <p>7 A. The scene was well lit.</p> <p>8 Q. When you did look in, what did you see?</p> <p>9 A. Mr. Owensby was handcuffed and laying in</p> <p>10 the back of the cruiser.</p> <p>11 Q. How was he situated in the back seat?</p> <p>12 Sitting up, laying down?</p> <p>13 A. He was laying down.</p> <p>14 Q. Where was his head?</p> <p>15 A. His head was facing the passenger's side</p> <p>16 of the car.</p> <p>17 Q. When you looked in were you on the</p> <p>18 passenger's side of the car?</p> <p>19 A. Correction. His head was facing the</p> <p>20 driver's side of the car. When I looked in I was on</p> <p>21 the passenger's side.</p> <p>22 Q. So you were looking in through the</p> <p>23 passenger's side rear window?</p> <p>24 A. Correct.</p>

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<p>1 Q. The windows I take it were rolled up?</p> <p>2 A. Yes.</p> <p>3 Q. So when you looked in, the part of Mr.</p> <p>4 Owensby's body closest to you on the passenger's</p> <p>5 side would have been his feet and legs?</p> <p>6 A. That's correct.</p> <p>7 Q. Were they on the seat?</p> <p>8 A. I don't recall.</p> <p>9 Q. Now, was he laying on his side, on his</p> <p>10 stomach, on his back? How was he positioned on the</p> <p>11 seat?</p> <p>12 A. He was on his side.</p> <p>13 Q. Do you know which side?</p> <p>14 A. I believe it was his right side.</p> <p>15 Q. Was his face then facing the trunk?</p> <p>16 A. I don't recall.</p> <p>17 Q. Let me show you what's previously been</p> <p>18 marked as Exhibit 67. I believe that is a</p> <p>19 photograph of the back seat of your Golf Manor</p> <p>20 cruiser?</p> <p>21 MR. HARDIN: I'm sorry, what was the</p> <p>22 number?</p> <p>23 MR. MARTINS: 67.</p> <p>24 Q. Can you tell whether or not that's taken</p>	<p>1 Q. Why did you look in?</p> <p>2 A. I don't know.</p> <p>3 Q. While you were standing outside the car</p> <p>4 near the passenger rear door did you talk with any</p> <p>5 other officers?</p> <p>6 A. Yes.</p> <p>7 Q. Who did you talk to?</p> <p>8 A. I spoke with Officer Brazile.</p> <p>9 Q. He's a Cincinnati police officer?</p> <p>10 A. He's a Cincinnati police officer, that's</p> <p>11 correct.</p> <p>12 Q. You know him from the academy?</p> <p>13 A. I do.</p> <p>14 Q. Did you talk with anyone else?</p> <p>15 A. Officer Campbell. I don't know if I spoke</p> <p>16 with anybody else at that time.</p> <p>17 Q. What did you and Officer Campbell talk</p> <p>18 about?</p> <p>19 A. I don't recall.</p> <p>20 Q. What did you and Officer Brazile talk</p> <p>21 about?</p> <p>22 A. I hadn't seen him in a while. We went to</p> <p>23 the academy together at Scarlet Oaks, and I asked</p> <p>24 him how he was doing. He said, "Good." And we</p>
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<p>1 from the driver's side or the passenger's side?</p> <p>2 A. I can't tell.</p> <p>3 Q. Do you recall if he was laying on his</p> <p>4 right side, and his head would have been behind the</p> <p>5 driver's seat, correct?</p> <p>6 A. His head was behind the driver's seat.</p> <p>7 Q. So then he would have been facing the</p> <p>8 trunk of the car?</p> <p>9 MR. WEISENFELDER: Objection.</p> <p>10 Go ahead.</p> <p>11 A. What's the question?</p> <p>12 Q. If he's laying on the back seat of the car</p> <p>13 and his head is behind the driver's seat, he's</p> <p>14 laying on his right shoulder, on his right side,</p> <p>15 wouldn't his face be facing the trunk?</p> <p>16 A. I don't recall how his face was.</p> <p>17 Q. When you looked in at him did you notice</p> <p>18 any movement?</p> <p>19 A. No.</p> <p>20 Q. Did you hear any sounds?</p> <p>21 A. No.</p> <p>22 Q. Did you do anything in response to looking</p> <p>23 in on Mr. Owensby?</p> <p>24 A. No.</p>	<p>1 shook hands.</p> <p>2 Q. Did Officer Brazile look in the car?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall whether or not he used a</p> <p>5 flashlight?</p> <p>6 A. I don't recall if he did or not.</p> <p>7 Q. Did he say anything to you after he looked</p> <p>8 in the car?</p> <p>9 A. He did say something.</p> <p>10 Q. Do you recall what he said?</p> <p>11 A. I don't recall exactly what he said.</p> <p>12 (Plaintiff's Exhibit 71 was marked for identi-</p> <p>13 fication.)</p> <p>14 Q. I'll direct you, but this is an excerpt</p> <p>15 from Officer Brazile's deposition. It's marked as</p> <p>16 Exhibit 71.</p> <p>17 MR. WEISENFELDER: Do you want him to read</p> <p>18 the whole thing?</p> <p>19 MR. MARTINS: No.</p> <p>20 Q. I'll direct you. Specifically, I want to</p> <p>21 direct your attention to page 54.</p> <p>22 Beginning at line 3, you see the question</p> <p>23 is posed: "Did you say anything to Officer Heiland</p> <p>24 at that time, after seeing Mr. Owensby with your</p>

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<p style="text-align: right;">Page 30</p> <p>1 flashlight?"</p> <p>2 And Officer Brazile says, "Yes."</p> <p>3 The question is: "What did you say to</p> <p>4 Officer Heiland?"</p> <p>5 "Answer: I walked around to the other</p> <p>6 side of the vehicle.</p> <p>7 "Question: To the -- to the --</p> <p>8 "Answer: To where they were.</p> <p>9 "Question: -- rear of the passenger's</p> <p>10 side of the vehicle?</p> <p>11 "Answer: Where they were standing.</p> <p>12 "Question: Okay.</p> <p>13 "And I asked him, I said, 'The guy you</p> <p>14 have in your car, is he okay?' I said, 'Can he</p> <p>15 breathe?' I said, 'He's in a' -- you know, position</p> <p>16 that looked like he was in, it may have been hard,</p> <p>17 so I asked him. I'm figuring he's their prisoner.</p> <p>18 No one ever said whose he was. I figured he was</p> <p>19 theirs, because he was in their car.</p> <p>20 "And basically I was just trying to let</p> <p>21 them know to check on him, just to see what's going</p> <p>22 on with him or did they know or had they checked. I</p> <p>23 don't know. I just had arrived.</p> <p>24 "And basically when I told them, you know,</p>	<p style="text-align: right;">Page 32</p> <p>1 Do you recall shrugging your shoulders in</p> <p>2 response to something that Officer Brazile said?</p> <p>3 A. I do not recall.</p> <p>4 Q. Do you recall whether or not Officer</p> <p>5 Brazile looked in the car before or after you looked</p> <p>6 in the car to see Mr. Owensby?</p> <p>7 A. I do not know.</p> <p>8 Q. What's the next thing you remember as far</p> <p>9 as standing at the back of the car? You had a</p> <p>10 conversation with Officer Brazile, what's the next</p> <p>11 thing that happens?</p> <p>12 A. The next thing that happens, I believe, is</p> <p>13 a sergeant, Cincinnati sergeant --</p> <p>14 Q. Male?</p> <p>15 A. Male sergeant. I don't recall his name.</p> <p>16 Q. Sergeant Watts?</p> <p>17 A. Sergeant Watts. I think some of my</p> <p>18 statements I say Sergeant Browner. I think there</p> <p>19 was two sergeants there.</p> <p>20 Q. There were.</p> <p>21 A. Sergeant Watts, the male sergeant, asked</p> <p>22 me -- he wanted to speak to the prisoner. So I went</p> <p>23 over to the side of the car to roll down the window</p> <p>24 for him. He subsequently opened it. I rolled the</p>
<p style="text-align: right;">Page 31</p> <p>1 they basically just stood there and kind of like</p> <p>2 shrugged their shoulders.</p> <p>3 "Question: Both of them?</p> <p>4 "Answer: From what I recall."</p> <p>5 Does that refresh your recollection as to</p> <p>6 what was said?</p> <p>7 A. No. I don't -- I don't recall what he</p> <p>8 said. I know we had a conversation and I --</p> <p>9 Q. So you don't know if what he's saying here</p> <p>10 is accurate or inaccurate?</p> <p>11 A. I do not.</p> <p>12 Q. If you look at page 56, beginning with</p> <p>13 line 14 the question is: "As I recall, your</p> <p>14 statement was something along the lines of: This</p> <p>15 looks fucked up, can he breathe, it don't look like</p> <p>16 he can from the way he's laying."</p> <p>17 Answer is: "Uh-huh."</p> <p>18 "Question: Is that accurate to your</p> <p>19 recollection?</p> <p>20 "Answer: Yes.</p> <p>21 "And you saying, in response to that,</p> <p>22 Officer Heiland and possibly the other officer</p> <p>23 simply shrugged their shoulders?"</p> <p>24 "Answer: Yes."</p>	<p style="text-align: right;">Page 33</p> <p>1 window down. He opened the door and tried to speak</p> <p>2 to Mr. Owensby.</p> <p>3 Q. When you rolled down the window you did</p> <p>4 this from the driver's door?</p> <p>5 A. That's correct.</p> <p>6 Q. These are automatic windows?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Where was Sergeant Watts in relation to</p> <p>9 your cruiser? Was he on the driver's side? Was he</p> <p>10 on the passenger's side?</p> <p>11 A. He was on the driver's side by the rear</p> <p>12 door.</p> <p>13 Q. Do you recall if anybody was with Sergeant</p> <p>14 Watts?</p> <p>15 A. I don't know.</p> <p>16 Q. So you rolled down the window for him, and</p> <p>17 what does he do?</p> <p>18 A. He says something to the effect of, Hey,</p> <p>19 buddy, can I talk to you? Hey. He tries to arouse</p> <p>20 Mr. Owensby.</p> <p>21 Q. Did you hear any response from Mr.</p> <p>22 Owensby?</p> <p>23 A. No.</p> <p>24 Q. Did you see Mr. Owensby move?</p>

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<p style="text-align: right;">Page 42</p> <p>1 Q. Do you know whether or not any lawyers 2 showed up on the scene? 3 A. I don't know. The news was across the 4 street. 5 Q. The what? 6 A. The news. 7 Q. What is the news? 8 A. The news. The media. 9 Q. Oh. Okay. 10 A. Yeah. 11 MR. WEISENFELDER: Wait until there's a 12 question. 13 THE WITNESS: Sorry. 14 Q. Am I correct in understanding that when 15 you initially pulled into the Sunoco station you saw 16 two Cincinnati Police Department uniformed officers 17 kneeling down over Mr. Owensby? 18 A. Correct. 19 Q. Were they kneeling on him or next to him? 20 A. From where I was standing I couldn't be 21 exact -- I couldn't say with certainty where their 22 knees were. It appeared that they were just next to 23 him, crouched down. 24 Q. As you got out of your car and circled</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. As they were coming toward you bringing 2 Mr. Owensby, were you facing them? 3 A. Yes. 4 Q. So you were also facing Mr. Owensby, 5 right? 6 A. Yes. 7 Q. Could you see his face? 8 A. Yes. 9 Q. What did his face look like? 10 A. It appeared that he had a little bit of 11 blood on his face, and I don't recall that there was 12 any facial expression or anything like that. 13 Q. Did he have any blood on his forehead? 14 A. I don't recall. 15 Q. Were his eyes opened or closed? 16 A. I don't know. 17 Q. Was his head erect or down or back? 18 A. It was down a little bit. 19 Q. Did you hear him say anything as they were 20 bringing him toward your cruiser? 21 A. No. 22 Q. Did you see him move in any fashion as 23 they were bringing him towards your cruiser? 24 A. No.</p>
<p style="text-align: right;">Page 43</p> <p>1 around to the right of the -- to the front of the 2 car and the Huntington Meadows security officer 3 waved you down, at this point in time the officers 4 were picking up Mr. Owensby off of the ground; is 5 that right? 6 A. Correct. 7 Q. When he was picked up off the ground you 8 believe he was handcuffed; is that right? 9 A. I believe he was. 10 Q. That's because of the position of his 11 arms? 12 A. Correct. 13 Q. The officers that picked him up, were 14 those officers Jorg and Caton? 15 A. Yes. 16 Q. It was those two officers who escorted Mr. 17 Owensby towards your car? 18 A. Correct. 19 Q. Do you recall which officer asked you for 20 permission to place Mr. Owensby in your car? 21 A. I do not know. 22 Q. Do you know whether or not it was one of 23 those two, that is Caton or Jorg? 24 A. I do not know.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. I mean, obviously he's moving, because 2 they're bringing him, but I mean, in terms of 3 actively resisting, trying to pull away from them or 4 kicking at them, anything like that? 5 A. I didn't see him kick. No major 6 movements. It appeared that they were struggling to 7 get him to the cruiser. 8 Q. As you sit here today, you don't recall 9 whether or not the struggling was because they were 10 carrying somebody who was unconscious or whether or 11 not it was resistance of some sort? 12 A. I do not know. 13 Q. Would you describe for me how they were 14 bringing him to the cruiser, that is their position 15 in relation to Mr. Owensby. 16 A. One officer on each side with their arm 17 through his (indicating). 18 Q. So his arms are handcuffed behind his 19 back? 20 A. Handcuffed. 21 Q. They are on each side? Who is on Mr. 22 Owensby's right as you're looking, your left? Do 23 you understand what I'm saying? 24 A. No.</p>

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<p style="text-align: right;">Page 46</p> <p>1 Q. Mr. Owensby is coming towards you. 2 A. Okay. 3 Q. Who is to Mr. Owensby's right? Who is 4 holding his right arm? 5 A. If I'm looking at them and they're coming 6 towards me, Officer Jorg is on -- 7 Q. -- Owensby's left? 8 A. Owensby's left. Officer Caton is on the 9 right. 10 Q. As I understand it, his arms are 11 handcuffed behind his back and each officer has an 12 arm through, I guess, near his elbow through the 13 arm? 14 A. I believe so, yes. 15 Q. Were the officers breathing heavily like 16 someone who had just been in a struggle? 17 A. They appeared that they were breathing 18 heavy, disheveled. 19 Q. Right. Did you notice whether or not Mr. 20 Owensby was breathing heavily? 21 A. I did not. 22 Q. Am I correct in understanding that you saw 23 no movement and heard no sounds from Mr. Owensby as 24 they brought him toward the car?</p>	<p style="text-align: right;">Page 48</p> <p>1 help -- 2 Q. Did you see him -- I'm sorry, I didn't 3 mean to interrupt you. Go ahead. 4 A. -- to help, I assumed to help get Mr. 5 Owensby in the car. 6 Q. Did you see what Officer Caton did when he 7 went around to the driver's rear door? 8 A. No. 9 Q. Did you see him open the driver's rear 10 door? 11 A. No. 12 Q. So when you turn your attention away from 13 the car, Mr. Owensby was being placed in the car and 14 Caton was going around to the driver's rear door? 15 A. Correct. 16 Q. When they placed Mr. Owensby in the car he 17 was placed in head first, correct? 18 A. Correct. 19 Q. In your experience, when you place a 20 prisoner in a car, in a police cruiser, who's 21 handcuffed, assuming the prisoner is conscious, 22 would they go in head first or would they place 23 their feet in and then their butt and then the rest 24 of their torso in?</p>
<p style="text-align: right;">Page 47</p> <p>1 A. That's correct. 2 Q. Could you tell whether or not, as they 3 approached you and your car, whether or not Mr. 4 Owensby was unconscious? 5 A. I couldn't tell. 6 Q. I take it you did not check? 7 MR. WEISENFELDER: Objection. 8 Go ahead. 9 A. I did not. 10 Q. So am I correct in understanding that when 11 Jorg and Caton placed Mr. Owensby in your car you 12 did not know the condition of Mr. Owensby at that 13 time? 14 A. I did not know. 15 Q. The physical condition of Mr. Owensby? 16 A. I did not. 17 Q. You did not know whether or not he was 18 conscious or unconscious? 19 A. I did not. 20 Q. As I understand it, after you opened the 21 door Officer Jorg and Caton put Owensby in the back 22 seat and then Caton went around to the driver's side 23 to pull Owensby into the back seat; is that right? 24 A. He did go around to the other side to</p>	<p style="text-align: right;">Page 49</p> <p>1 MR. HARDIN: Objection. 2 MR. WEISENFELDER: You can answer. 3 THE WITNESS: Objection, go ahead? 4 A. Assuming that they're conscious, that's 5 correct, feet first and set them in the cruiser. 6 Q. In this case he was head first and torso 7 in, and then you saw Caton go around to the other 8 side of the car? 9 A. Correct. 10 Q. When Officer Caton walked around to the 11 other side of the car were Mr. Owensby's legs still 12 outside of the car? 13 A. I don't know. 14 Q. Did you hear any grunting or groaning from 15 the officers as they were trying to put Mr. Owensby 16 in the car? 17 MR. WEISENFELDER: I'm going to object. 18 Grunting or groaning from the officers or from 19 Mr. Owensby? 20 MR. MARTINS: From the officers. From 21 either Jorg or Caton. 22 Q. You can answer. 23 MR. WEISENFELDER: You can answer. 24 THE WITNESS: Okay.</p>

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<p style="text-align: right;">Page 70</p> <p>1 A. When we would respond to a scene to assist 2 another department we would be under their command, 3 no matter what the rank. If you pull up on the 4 scene you assist them in how they need you to 5 assist. 6 Q. Did you have an understanding as to 7 whether or not you would, in this situation, 8 November 7, 2000, when you responded to the Sunoco 9 station, did you understand that you were assisting 10 the Cincinnati Police Department? 11 A. Yes. The assistance call came out. 12 That's why I was there. 13 Q. In responding to this assistance call, did 14 you understand that you would be subject to the 15 rules, policies, and customs of the Cincinnati 16 Police Department or the Golf Manor Police 17 Department? 18 A. My understanding was I would be there at 19 the scene to assist them how they needed me to. 20 Q. But what rules governed your conduct? Was 21 it Golf Manor or was it Cincinnati Police 22 Department? 23 MR. WEISENFELDER: Objection. 24 Go ahead.</p>	<p style="text-align: right;">Page 72</p> <p>1 rules and regulations; is that correct? 2 MR. WEISENFELDER: Objection as to form. 3 If you can answer that, go ahead. 4 A. I can't answer it. 5 Q. My question is just whether or not you had 6 any instruction on November 7th as to which 7 department's rules and regulations you were to 8 follow when you were assisting another police 9 department. 10 MR. WEISENFELDER: Objection. 11 Q. The question is just whether or not you 12 had any instruction. 13 A. No. 14 Q. As of November 7, 2000, did you have any 15 understanding as to whether you had any 16 responsibilities for the safety of a prisoner who 17 was placed in your cruiser? 18 MR. WEISENFELDER: I'm going to object 19 again as to the form. 20 Go ahead. 21 A. The question again, please? 22 Q. As of November 7, 2000, did you have any 23 understanding of your responsibilities for the 24 safety of a prisoner who is arrested by another</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. If you know. 2 A. I don't know. 3 Q. Do you recall receiving any instruction or 4 guidance concerning what rules a Golf Manor officer 5 had to follow when he was in this situation of 6 assisting another police department? 7 A. Through working with other officers in 8 field training and going to other scenes and other 9 departments, I just understood that we were under 10 their direction for as long as they needed 11 assistance and that was it. 12 Q. Did you have any understanding that you 13 would be bound -- or whether or not you would be 14 bound by the policies, rules, and regulations of the 15 Cincinnati Police Department if you were assisting 16 the Cincinnati Police Department? 17 A. I didn't know. 18 Q. You didn't know? 19 A. I didn't -- at that time I don't -- I 20 don't know. 21 Q. And as I take it at that time you had 22 received no instruction on whether or not you were 23 bound by, say in this case, Cincinnati's rules and 24 regulations or continued to be bound by Golf Manor's</p>	<p style="text-align: right;">Page 73</p> <p>1 police force but placed in your cruiser? 2 MR. WEISENFELDER: Objection. 3 Go ahead. 4 A. My understanding at that time is I would 5 be responsible for my prisoners, anybody that was in 6 my custody. If somebody is not my prisoner, not in 7 my custody, then on the assistance call if somebody 8 puts their prisoner in the back of my car, they 9 asked to put them in the back of my car and I'm 10 there for assistance. It's their prisoner and it's 11 in their custody. So it's their responsibility. 12 Q. Did you have any understanding that by 13 accepting the prisoner and placing him in the back 14 seat of the Golf Manor cruiser that the prisoner was 15 now in your custody? 16 MR. WEISENFELDER: Objection as to the 17 word "accepting." 18 Go ahead and answer. 19 A. No. 20 Q. Did you receive any training as to the 21 distinction we've just been talking about, that 22 whether or not a prisoner placed in a Golf Manor car 23 from another jurisdiction, as to who had custody of 24 the prisoner?</p>

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<p style="text-align: right;">Page 74</p> <p>1 A. From going to other calls and seeing it 2 done before, the prisoner's always the arresting 3 officer's or the agency's jurisdiction where you're 4 at. 5 Q. You had had this arise in the past? 6 A. I have seen it done on other calls. 7 Q. Before November 7, 2000? 8 A. I don't recall exact dates, but, yeah. 9 Q. But before the night of November 7, 2000; 10 is that right? 11 A. Yes. 12 Q. Did you feel that you had any 13 responsibility for the well-being of Mr. Owensby? 14 A. No. 15 MR. WEISENFELDER: Objection. 16 Go ahead. 17 Q. Regardless of who is technically 18 responsible for the well-being of a prisoner, if you 19 know that a prisoner is injured and needs medical 20 attention, is it your understanding that you have a 21 duty to provide medical attention? 22 A. Yes. 23 Q. You knew that this person, Mr. Owensby, 24 had blood around his nose and mouth; is that right?</p>	<p style="text-align: right;">Page 76</p> <p>1 A. That's correct. 2 Q. That's one of the sections of the Golf 3 Manor manual that you reviewed in preparation for 4 your deposition today? 5 A. That's correct. 6 Q. Did you select out the sections to review 7 today or did someone else select them out for you? 8 The sections of the manual. 9 A. Did I select these today? 10 Q. No, no. When you were getting ready for 11 your deposition, for today's deposition, you 12 reviewed various sections of the Golf Manor manual. 13 My question is did you select out those provisions 14 to look at or did someone else select them out for 15 you? 16 MR. WEISENFELDER: I'm going to object. I 17 think your invading the attorney-client 18 privilege now, to the extent that the attorney 19 may have been present when he was preparing for 20 the deposition, and what he may have been 21 instructed to review by an attorney I believe 22 falls within that. 23 Q. The only question I want to know is 24 whether or not you selected the sections, either a</p>
<p style="text-align: right;">Page 75</p> <p>1 A. Yes. 2 Q. Did you take any steps to administer any 3 first aid for the blood around the nose and mouth? 4 MR. WEISENFELDER: Objection. 5 Go ahead. 6 A. No. 7 Q. Had you done so, do you think you would 8 have been in a better position to determine whether 9 or not Mr. Owensby was conscious or unconscious at 10 the time he was placed in your vehicle? 11 MR. WEISENFELDER: Objection. 12 Go ahead. 13 A. I don't know. 14 Q. I know you said that you don't recall what 15 Officer Brazile told you, but do you recall whether 16 or not you took any action in response to what 17 Officer Brazile told you? 18 A. I don't recall. 19 (Plaintiff's Exhibit 77 20 was marked for identi- 21 fication.) 22 Q. Let me show you a portion of the Golf 23 Manor manual, marked as Exhibit 77. Exhibit 77 is 24 the Golf Manor manual provision 6-07 concerning prisoner transportation; is that right?</p>	<p style="text-align: right;">Page 77</p> <p>1 yes or no, not as to any communication with any 2 attorney. 3 MR. WEISENFELDER: You can answer. 4 A. No, I did not select the sections. 5 Q. In Exhibit 77, if you go to page 4 you 6 will see that it is blank. I have what I believe is 7 page 4 based on what counsel has provided. 8 MR. WEISENFELDER: Counsel will represent 9 that when responding to request for production 10 of documents approximately a year ago, that 11 apparently in copying what was believed to be a 12 responsive portion of the manual, page 4 13 apparently was blacked out, not intentionally. 14 (Plaintiff's Exhibit 15 77A was marked for 16 identi- fication.) 17 Q. So I'm going to mark page 4 with 18 Exhibit -- as 77A. I want to direct your attention 19 to section II. A of the manual, which is on the 20 first page of Exhibit 77. 21 The second sentence of II. A. says, 22 "Therefore, it is the policy of this department that 23 EVERY prisoner transported in a police vehicle shall 24 be searched and handcuffed by the transporting officer prior to being transported, unless</p>

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<p style="text-align: right;">Page 86</p> <p>1 A. I said, "Sure." 2 Q. "Sure." Did anyone say to you words to 3 the effect, "We're going to transport him later"? 4 A. No. 5 Q. Go to page 6, please. Section II. E., 6 first paragraph says, "Any prisoner who is sick or 7 injured shall be examined by life squad personnel 8 and offered treatment for their injury or illness 9 prior to being transported to any jail or detention 10 facility." See that? 11 A. Yes, sir. 12 Q. On November 7, 2000 did you understand 13 that to be the policy and requirements of Golf 14 Manor? 15 A. Yes. 16 Q. Did you make any attempt to determine 17 whether or not Mr. Owensby was injured, other than 18 seeing the blood around his nose and mouth? 19 MR. WEISENFELDER: Objection. 20 Go ahead. 21 A. No. 22 Q. I take it you took no steps to ensure that 23 he was examined by life squad personnel, correct? 24 MR. WEISENFELDER: Objection.</p>	<p style="text-align: right;">Page 88</p> <p>1 was Maced? 2 A. I did not know. 3 Q. Did you smell Mace when you got there? 4 A. I did not. 5 Q. Did you see any police officers or other 6 individuals coughing or reacting to Mace? 7 A. Not that I recall. 8 Q. Have you used Mace? 9 A. Yes. 10 Q. Have you been Maced? 11 A. Yes. 12 Q. Based on your experience, what is the 13 reaction to Mace? 14 A. Based on my experience, it's rather 15 unpleasant. It causes you to sneeze or your mucus 16 membranes to excrete. 17 Q. Does it make breathing difficult? 18 A. To me personally, it didn't -- it wasn't 19 tough for me to breathe when I was Maced. I can't 20 speak for other people. I have heard that, but it 21 wasn't for me. 22 Q. Over the radio did you hear any report 23 that Mr. Owensby had been Maced? 24 A. No.</p>
<p style="text-align: right;">Page 87</p> <p>1 Go ahead. 2 A. Correct. 3 Q. The only life squad personnel involved 4 would have been when Sergeant Watts called for 5 medical assistance, correct? 6 MR. HARDIN: Object to the form of the 7 question. 8 MR. WEISENFELDER: Go ahead. 9 A. Correct. 10 Q. You never offered treatment for Mr. 11 Owensby's injuries on the night of November 7, 2000, 12 correct? 13 MR. WEISENFELDER: Objection. 14 Go ahead. 15 A. Correct. 16 Q. Had you attempted to ask him, ask Mr. 17 Owensby, whether or not he wanted treatment for his 18 injuries, the blood that you saw around the nose and 19 mouth, you would have been able to determine whether 20 or not he was conscious or unconscious, correct? 21 MR. WEISENFELDER: Objection. 22 Go ahead. 23 A. Correct. 24 Q. Did you know whether or not Mr. Owensby</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Paragraph E. 3. on page 6. It says, "If 2 necessary, the Golf Manor Life Squad may be called 3 to provide an ambulance for transportation to a 4 medical facility." In this situation the Golf Manor 5 life squad was never called, correct? 6 MR. WEISENFELDER: Objection. 7 Go ahead. 8 A. Correct. 9 Q. At E. 5. it says, "Unconscious prisoners 10 shall not be transported in a police vehicle, but 11 shall be taken to a hospital or medical facility by 12 ambulance." Do you see that? 13 A. Yes. 14 Q. Again, there was no attempt by you or 15 anyone on behalf of Golf Manor to determine whether 16 or not the person being placed in your vehicle was 17 conscious or unconscious, correct? 18 MR. WEISENFELDER: Objection. 19 Go ahead. 20 A. Correct. 21 Q. In fact, based on what you observed, your 22 observations were consistent with someone who was 23 unconscious, correct? 24 MR. WEISENFELDER: Objection.</p>

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<p style="text-align: right;">Page 90</p> <p>1 Go ahead.</p> <p>2 A. I didn't know if he was conscious or</p> <p>3 unconscious.</p> <p>4 Q. Well, you heard no sounds from the</p> <p>5 individual at any time, correct, from Mr. Owensby?</p> <p>6 A. Correct.</p> <p>7 Q. You saw no movement from him at any time,</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. As of November 7, 2000, had you had any</p> <p>11 training from Golf Manor as to whether or not you</p> <p>12 should make a determination of whether a prisoner is</p> <p>13 conscious or unconscious before that prisoner is</p> <p>14 placed in your vehicle when you are in a situation</p> <p>15 of assisting another police department?</p> <p>16 A. No.</p> <p>17 Q. Had you received any training on that</p> <p>18 subject?</p> <p>19 A. No.</p> <p>20 Q. As you sit here today, have you received</p> <p>21 any training on that subject?</p> <p>22 MR. WEISENFELDER: Objection.</p> <p>23 Go ahead.</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 92</p> <p>1 assistance, but when you arrived the officers were</p> <p>2 disheveled and were breathing heavily, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Again, in contrast to that you saw Mr.</p> <p>5 Owensby was not breathing heavily, correct?</p> <p>6 A. I don't recall.</p> <p>7 Q. You did not notice that he was breathing</p> <p>8 heavily?</p> <p>9 A. I did not notice, correct.</p> <p>10 (Plaintiff's Exhibit 78 was marked for identi-</p> <p>11 fication.)</p> <p>12 Q. Let me show you Exhibit 78, a document</p> <p>13 that we received yesterday. This is the mutual aid</p> <p>14 agreement between Golf Manor and other police</p> <p>15 departments in the greater Cincinnati area and</p> <p>16 Cincinnati Police Department?</p> <p>17 A. Correct.</p> <p>18 Q. Have you in the course of performing your</p> <p>19 duties at Golf Manor had the opportunity to review</p> <p>20 this mutual aid agreement?</p> <p>21 A. I have.</p> <p>22 Q. Have you had any training at Golf Manor</p> <p>23 concerning how to operate under the mutual aid</p> <p>24 agreement?</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Based on your understanding of the rules</p> <p>2 and regulations, policies of Golf Manor, if Officer</p> <p>3 Campbell had made an arrest and the subject was</p> <p>4 unconscious, would you believe that it would be okay</p> <p>5 for Officer Campbell to place the subject in your</p> <p>6 car, even though he was unconscious?</p> <p>7 MR. WEISENFELDER: Objection.</p> <p>8 Go ahead.</p> <p>9 A. No.</p> <p>10 Q. Am I correct in understanding that if the</p> <p>11 subject is unconscious the policy is that he should</p> <p>12 not be placed in any car and that an ambulance</p> <p>13 should be called?</p> <p>14 MR. WEISENFELDER: Objection.</p> <p>15 Go ahead.</p> <p>16 A. Correct.</p> <p>17 Q. In addition to observing that Mr. Owensby</p> <p>18 made no sounds and made no motion that evening, you</p> <p>19 understood when you arrived on the scene that there</p> <p>20 had been some sort of struggle in the arrest,</p> <p>21 correct?</p> <p>22 A. It appeared that there had been a</p> <p>23 struggle, yes.</p> <p>24 Q. You base that not only on the call for</p>	<p style="text-align: right;">Page 93</p> <p>1 MR. WEISENFELDER: Objection as to what</p> <p>2 he's already testified concerning his</p> <p>3 understanding from other officers about the</p> <p>4 agreement.</p> <p>5 Q. I'm asking about formal training from Golf</p> <p>6 Manor.</p> <p>7 A. What do you mean by formal training?</p> <p>8 Q. A class.</p> <p>9 A. No.</p> <p>10 Q. Have there been any directives or memos</p> <p>11 given to you concerning how a Golf Manor officer is</p> <p>12 to carry out the mutual aid agreement?</p> <p>13 A. Not that I'm aware of.</p> <p>14 Q. Have any superiors at Golf Manor explained</p> <p>15 to you how an officer should behave in carrying out</p> <p>16 the mutual aid agreement?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Other than reading the mutual aid</p> <p>19 agreement, which you said you did, have you received</p> <p>20 any guidance from Golf Manor on how the terms of the</p> <p>21 agreement should be carried out, what your</p> <p>22 obligations are, what your duties are?</p> <p>23 A. From working on the road with an FTO and</p> <p>24 responding to other agencies, it's my understanding</p>

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<p style="text-align: right;">Page 94</p> <p>1 that you're under the authority of the jurisdiction 2 where you're at. Other than that, that's about as 3 far as the explanations went. I mean, you go there 4 to assist, help out with what they need you to help 5 out with, and then you go. 6 Q. When you say an FTO, that's a field 7 training officer? 8 A. Correct. 9 Q. Is that someone who is like a mentor to 10 you? 11 A. Yes. 12 Q. Look at page 7 of Exhibit 78, 13 paragraph VI. C. It says, "Whenever the law 14 enforcement" employee of one cooperating Agency" -- 15 "employees of one cooperating Agency are providing 16 police services in or to another cooperating agency 17 pursuant to the authority contained in this 18 contract, other legislative authority or state law, 19 such employees will have the same power, duties, 20 rights and immunities as if taking action within the 21 territory of their employing Agency." What did you 22 understand your duties to be under this 23 circumstance? 24 A. To respond and to assist the Cincinnati</p>	<p style="text-align: right;">Page 96</p> <p>1 up and Officer Campbell says, "Can I place Owensby 2 in the back seat of your cruiser?" and you say, 3 "Sure," are you responsible for Owensby's 4 well-being? 5 MR. WEISENFELDER: Objection. 6 Go ahead. 7 A. No. 8 Q. Am I correct in understanding the reason 9 you say no is because you did not arrest Mr. 10 Owensby? 11 A. At that point he would not be my prisoner. 12 Q. Why? 13 A. Because I did not arrest him. 14 Mr. Campbell placed him under arrest. 15 Q. Look at page 8, paragraph G. I'm looking 16 at the second sentence. "Each Agency shall be 17 responsible for the negligence of its employees to 18 the extent specified by law." Do you have any 19 understanding of what that means? 20 MR. WEISENFELDER: Objection. 21 Go ahead. 22 If you do -- 23 A. I don't. 24 Q. Did you receive any training or guidance</p>
<p style="text-align: right;">Page 95</p> <p>1 Police Department however they needed. 2 Q. You see that it says the same duties as if 3 taking action within the territory of Golf Manor. 4 A. Yes. 5 Q. If you were responding in the territory of 6 Golf Manor to the arrest of Mr. Owensby would you 7 have been responsible for his well-being? 8 A. If he was my prisoner -- 9 MR. WEISENFELDER: Objection. 10 Go ahead. 11 A. If he was my prisoner, yes. 12 Q. If he was not your prisoner, but you were 13 located in Golf Manor and he was placed in your car, 14 would you have been responsible for his well-being? 15 MR. WEISENFELDER: Objection. 16 Go ahead. 17 A. No. 18 Q. Why not? 19 A. Because he wasn't my prisoner. Unless the 20 arresting officer specifically asked me, "Can you 21 keep an eye on my prisoner for me? I've got to go 22 here." 23 Q. Say this takes place in Golf Manor and the 24 arresting officer is Officer Campbell, and you show</p>	<p style="text-align: right;">Page 97</p> <p>1 as to how that provision could impact on you and the 2 performance of your duties for Golf Manor? 3 A. Provision G? 4 Q. G. The sentence I just read to you, "Each 5 Agency shall be responsible for the negligence of 6 its employees to the extent specified by law." 7 A. To that specific -- no. 8 Q. Have you received any training from Golf 9 Manor as to any responsibilities of its officers 10 created by a violation of a citizen's constitutional 11 rights where Golf Manor is a cooperating agency? 12 A. No. 13 Q. Is it your understanding that this 14 Exhibit 78 was in effect on November 7, 2000? 15 A. Yes. 16 Q. That was part of the reason why you 17 responded on November 7, 2000? 18 A. That's correct. 19 Q. I want to ask about a couple of 20 apprehension techniques. 21 A. Okay. 22 Q. Did you ever hear of a head wrap 23 technique? 24 A. I've never heard of a head wrap.</p>

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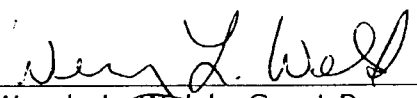
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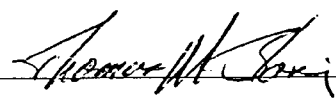
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STATE OF OHIO :
COUNTY OF HAMILTON : SS

I, Wendy L. Welsh, Notary Public in and for the State of Ohio, do hereby state that the transcript of the deposition of ROBERT B. HEILAND, JR., deponent herein, having been submitted to said deponent for review and signature, has not been signed within the thirty (30) day period allowed under the Federal Rules; said deposition to now have the same force and effect as though signed.


Wendy L. Welsh, Court Reporter

Sworn to before me this 27th day of January, 2004.


Thomas M. Blasing
Notary Public - State of Ohio
My commission expires:
May 4, 2004.